**Permit Number - ND2015-17051**

**State of North Dakota**
**Temporary Water Permit**
**SWC Project No. 1400A**

In response to an application for a temporary water permit dated Oct 19, 2015 as received in this office Oct 19, 2015, authority is hereby granted to:

Dakota Access LLC
1300 Main Street
Houston, TX 77002
Contact Person: Monica Howard Telephone (713) 989-7186

**A Temporary Water Permit as follows:**

**Source:** Missouri River

**Point of Diversion:** NE1/4 Sec. 30 Twp. 152 Rng. 103

**Nature of Use:** Hydrostatic testing

**Total Quantity of Water:** 54,500,000.0 Gallons

**Maximum Withdrawal Rate:** 2,400.0 gpm

**Period of authorized usage:** Mar 1, 2016 through Nov 30, 2016

**Conditions**
This temporary water permit is granted subject to use from the source by senior appropriators. Permission for access to the source must be obtained from all affected landowners. Failure to comply with any order of the State Engineer may result in forfeiture of this permit. The granting of a temporary water permit does not create a water right. Temporary water permits are not transferrable. Temporary water permits cannot be modified.

The applicant must posses a valid Sovereign Lands Permit from the State Engineers Office prior to withdrawing water under this temporary water permit.

Permit Holder must contact the North Dakota Department of Health at 701.328.5210 to complete and file NPDES Short Form C prior to discharging waters back into the waters of the state.

This temporary water permit is issued subject to water use from the source by senior appropriators.

Failure to comply with any order of the State Engineer may result in forfeiture of this temporary water permit. This includes the withdrawal of water that is not authorized.

Dated: Mar 1, 2016

Todd Sando, P.E.
State Engineer
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505

Jon C. Patch, P.E.
Director, Water Appropriation Division

cc: Williams WRD

**Permit Number - ND2015-17051**

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Prior to the beneficial use of water an automatic backflow prevention device (check valve) shall be installed in the above ground portion of the pipeline near the pump discharge. The injection of chemicals into the pipeline shall be downstream from the check valve. Other automatic backflow devices and the placement of those devices may be utilized upon approval of the State Engineer.

Prior to the beneficial use of water under this permit, an in-line, continuous recording totalizing flow meter shall be installed on the pump discharge line to measure the quantity of water pumped from the water source. The water flow meter must meet the following requirements:

A. The water flow meter must be certified by the manufacturer to record neither less than 98 percent nor greater than 102 percent of the actual volume of water passing the meter when installed according to the manufacturer's instructions.

B. The water flow meter must have a display that is readable at all times, whether the system is operating or not.

C. The water flow meter must have a totalizer that meets the following criteria:

   a. Is continuously updated to read directly only in acre-feet, acre-inches, gallons, cubic feet, or barrels (42 US gallons);

   b. Has sufficient capacity without recycling past zero more than once each year to record the quantity of water diverted in any one calendar year;

   c. Has a dial or counter that can be timed with a stopwatch over not more than a 10-minute period to accurately determine the rate of low under normal operating conditions; and

   d. Has a nonvolatile memory if the meter is equipped with an electronic totalizer.

D. The water flow meter must be installed according to the manufacturer's specifications and must be properly maintained according to manufacturer's recommendations including proper winterization such as removal during the winter.

E. The water flow meter shall be available for inspection by representatives of the State Engineer.

Dated: Mar 1, 2016

Todd Sando, P.E.
State Engineer
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505

Jon C. Patch, P.E.
Director, Water Appropriation Division

cc: Williams WRD

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Meter readings taken at the same approximate time daily must be provided to the State Engineers Office on a weekly basis from the date of issue through the termination date of this Temporary Water Permit. This includes all weeks that water is not withdrawn or weeks that the project is shut down for any reason. The weekly summary of the date and the amount of water withdrawn can either be faxed to 701.328.3696 or e-mailed to dfarrell@nd.gov once every week.

Holders of Temporary Water Permits must complete the Annual Water Use Report for each calendar year that the Temporary Water Permit is authorized. Annual Water Use Reports for Industrial Temporary Water Permits are due in the State Engineer's Office within 30 days of the close of the calendar year or within 30 days of the close of the authorized period of the Temporary Water Permit. Failure to comply with any order of the State Engineer may result in the forfeiture of this permit.

A weatherproof copy of this Temporary Water Permit must be attached the equipment withdrawing water and must be available for inspection by representatives of the State Engineers Office or the State Water Commission. A copy of this Temporary Water Permit must be posted in a conspicuous place at each booster pump where water under this permit is pumped.

Dated: Mar 1, 2016

for Jon C. Patch

Todd Sando, P.E.
State Engineer
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505

Jon C. Patch, P.E.
Director, Water Appropriation Division

cc: Williams WRD

OFFICE OF THE NORTH DAKOTA STATE ENGINEER
RECOMMENDED DECISION

To: Todd Sando, P.E., State Engineer
Approved by: Jon Patch, P.E., Director, Water Appropriations Division JP 3/3/16
Reviewed by: William Schuh, Assistant Division Director 3/3/16
From: Daniel J. Farrell, Hydrologist Manager – Surface Water-Missouri Basin DJF 3-1-16
Subject: Temporary water permit application – Dakota Access, LLC
Date: 29 February 2016

The State Engineers Office received an application for a temporary water permit from Dakota Access, LLC on 16 October 2015. This application requested the authorization to use 54,500,000 gallons (167.25 acre-feet) of water at a maximum rate of withdrawal of 2,400 gallons per minute (5.35 cubic feet per second) from the Missouri River. The requested point of diversion listed on the application was the northeast quarter of Section 30, Township 152 North, Range 103 West of Williams County. The nature of use for the proposed water was listed as "Hydrostatic testing of new pipeline", which is cataloged as "Construction - Pipeline Construction".

A hydrologic review was completed as a part of the review process for the temporary water permit application from Dakota Access, LLC. The worksheet generated in this review is available for review if needed. The worksheet will be filed with the temporary water permit in the master file. The requested point of diversion is located in the free-flowing section of the Missouri River at approximately river mile 1577, about five miles downstream of the confluence of the Yellowstone River. The Missouri River has been identified as a navigable river[1], and therefore the applicant will need to complete the application for a Sovereign Lands Permit. The Sovereign Lands Section of the Regulatory Division of the Office of the State Engineer has been advised of this application.

Incoming water flows to this region of the Missouri River can be estimated using two U.S. Geological Survey (USGS) stream flow gauges, identified as USGS Gauge 06185500, Missouri River at Culbertson, Montana, and USGS Gauge 06329500, Yellowstone River at Sidney, Montana. The Fort Peck Dam was completed in 1940,

[1] "Navigable & Non-navigable Waters of the State of North Dakota", Sovereign Lands Section, Regulatory Division, Office of the State Engineer, 01 January 2015

resulting a different paradigm of stream flow monitoring downstream of Fort Peck Dam. Missouri River annual flows at the Culbertson gauge are estimated as 5,986,399 acre-feet for the period from 1941 through 2014[2]. Annual mean daily flows over the same period, 1941 through 2014, are 10,090 cubic feet per second. Yellowstone River annual flows are estimated at the Sidney gauge as 8,701,000 acre-feet annually for a period from 1967 through 2012. Yellowtail Dam, on the Bighorn River, was completed in 1967 thus altering 28.5% of the drainage area for the Yellowstone River. Annual daily mean flows on the Yellowstone River are 12,430 cubic feet per second over the period from 2011 through 2014.[3]

**Senior Water Appropriators**

There are 125 appropriators utilizing the Missouri River flows in the Lake Sakakawea basin of the Missouri River that would be considered downstream prior appropriators to the applicant. These 125 appropriators, summarized in Table 1, have authorized annual quantities of water totaling 3,432,276.3 acre-feet.

Table 1
APPROPRIATORS DOWNSTREAM OF APPLICANT
TO GARRISON DAM

| PRIOR APPROPRIATORS | | |
|---|---|---|
| USE TYPE | NUMBER | ACRE-FEET |
| FISH & WILDLIFE | 6 | 605.9 |
| INDUSTRIAL | 31 | 59,960.0 |
| IRRIGATION | 68 | 102,719.8 |
| MULTIPLE USE | 3 | 3,145,000.0 |
| MUNICIPAL | 12 | 108,581.0 |
| POWER GENERATION | 1 | 15,000.0 |
| RURAL WATER | 4 | 409.0 |
| | | |
| TOTALS | 125 | 3,432,276.3 |

Climatic conditions no longer favor the use of excess waters for industrial use. One of the indicators for climatic conditions is the Palmer Drought Severity Index

[2] 2014 Water-Data Report, 06185500 Missouri River near Culbertson, USGS
[3] 2014 Water-Data Report, 06329500 Yellowstone River near Sidney, MT

(PDSI). The region of North Dakota including the requested point of diversion (Region 1) has a current PDSI value of -0.14, indicating that the region is classified as "Near Normal". The trending of the PDSI for Region 1 over the last three weeks has stayed relatively consistent; with a PDSI value four weeks ago was -0.21, whereas the current value is -0.14. Hence, the Surface Water Section of the Water Appropriation Division can recommend the use of the waters of the state in this region of North Dakota. However, the section must exhibit some caution and awareness in future reviews of temporary water permit applications in this region, as the PDSI for this region of North Dakota is staying within the "Near Normal" category.

The point of diversion is located in the free flowing portion of the Missouri River and as such will require an application for a Sovereign Lands Permit. Coordination with the Sovereign Lands Manager of the Regulatory Division will be beneficial and a condition should be added to the temporary water permit requiring a Sovereign Lands Permit

Therefore, the application by Dakota Access, LLC to put 54,500,000 gallons (167.25 acre-feet) of water to the beneficial use of Hydrostatic Testing at a maximum withdrawal rate of 2,400 gallons per minute (5.35 cubic feet per second) from the Missouri River via a point of diversion in the northeast quarter of Section 3, Township 152 North, Range 103 West is hereby recommended for approval with the conditions attached to the temporary water permit.

Daniel J. Farrell
Hydrologist Manager-Surface Water

RECEIVED
OCT 1 [illegible] 2015
STATE WATER COMMISSION

# APPLICATION FOR A TEMPORARY WATER PERMIT

NORTH DAKOTA STATE WATER COMMISSION
WATER APPROPRIATIONS
SFN 60158 (07/2014)

MAIL THE COMPLETED APPLICATION TO:
State Engineer • ND State Water Commission • State Office Building • 900 East Boulevard • Bismarck, ND 58505-0850
BY FAX - (701) 328-3696 • BY EMAIL - waterpermits@nd.gov

(SIGNATURE MUST BE PROVIDED)

1212
10-19-15

*NOTE: Use one application for each type of source (surface water or ground water). Use one application for each different surface water source. Complete all lines. If this application is not satisfactorily completed, it will be returned. If more space is necessary, attach additional sheets. Please type or print in ink. No map is required.*

17051

| | | | |
|---|---|---|---|
| Name of Applicant: Dakota Access, LLC | | | |
| Mailing Address: 1300 Main Street | | | |
| City: Houston | State: TX | Zip Code: 77002 | |
| Home Telephone Number: | Work Telephone Number: 713-989-7186 | | |
| Cell Phone Number: 713-898-8222 | E-Mail: monica.howard@energytransfer.com | | |
| Contact Person (if applicant is not an individual): Monica Howard | Contact Person Telephone Number: | | |
| Source of Water Supply (check one): [X] Surface Water Source [ ] Ground Water Source | | | |
| Name of Source (if surface water): Missouri River | County: Williams | | |
| 1/4 1/4 (if needed): NE 1/4 | Section: 30 | Township: 152N | Range: 103W |
| Purpose for Which Water Will be Used: Hydrostatic testing of new pipeline. | | | |
| Total Quantity of Water Requested: (complete one) | Acre-Feet: | Gallons: 54,500,000 | Barrels: |
| Unit Conversions: • 1 ac ft = 325,851 gallons | • 1 ac ft = 7,758.3 barrels | | |
| [ ] <1 AF $75 | [ ] 1-10 AF $125 | [X] >10 AF $200 | |
| *Fee must accompany signed temporary water permit application.* | | | |
| Withdrawal rate at which water is proposed to be diverted at the location listed above: | GPM: 2,400 gallons/minute maximum | | |
| Period of Usage: (up to 12 months) | From: 12/1/2015 | Through: 11/30/2016 | |
| Signature: Monica Howard | Date: 10/09/15 | | |
| Printed Name: Monica Howard | | | |

*Upon receipt of this form, the State Engineer will forward a written response to the applicant within approximately 30 days. If the application is approved, the granting of temporary water permit does not create a water right. If you have any questions, call (701) 328-2754.*

47.96034
103.91002

3249

# 2016 Temporary Permit Annual Water Use Report

**(Return all pages of this form even if no water was used)**

**ND2015-17051**

Permit Number:ND2015-17051

Make Name and/or Address corrections below:

Dakota Access LLC
1300 Main Street

Houston, TX 77002

Phone: (713) 989-7186

**Report the total in : Gallons or Barrels or Acre-Feet Please circle the units used ( gallons, barrels, acre-feet )**

Report the total amount of water per month if applicable:

| | | | |
|---|---|---|---|
| JANUARY | _____ | JULY | _____ |
| FEBRUARY | _____ | AUGUST | _____ |
| MARCH | _____ | SEPTEMBER | _____ |
| APRIL | _____ | OCTOBER | _____ |
| MAY | _____ | NOVEMBER | _____ |
| JUNE | _____ | DECEMBER | _____ |

**TOTAL ANNUAL USE** _____

## I. INFORMATION ABOUT WELLS, PUMPS, OR POINTS OF DIVERSION

**Report the following information for the Point of Diversion** NE1/4 Sec. 30 Twp. 152 Rng. 103

Water Source: Ground Water or Surface Water (Circle one)

Pumping Rate: _____ ( Circle: Barrels, Acre-Feet, Gallons ) PER ( Circle : Second, Minute, Hour, Day )

Total Water Use from this Point of Diversion : _____ ( Circle: Barrels, Acre-Feet, Gallons )

**WATER PERMIT CRITERIA:**

**Source:** Missouri River
**Nature of Use:** Hydrostatic testing
**Total Quantity of Water:** 167.25 Acre-Feet
**Maximum Withdrawal Rate:** 2,400.0 gpm
**Period of authorized useage:** Mar 1, 2016 through Nov 30, 2016

## II. MAKE ANY ADDITIONAL REMARKS BELOW:

Note: 1 Acre-Foot = 325,851 gallons.

E-Mail: depotreporting@nd.gov

Please return to:
North Dakota Office of the State Engineer
State Office Building
900 East Boulevard
Bismarck, ND 58505
Phone (701) 328-2754

Signature _____

Date : _____